

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

|                            |                                      |
|----------------------------|--------------------------------------|
| Date of Incident:          | September 18, 2017                   |
| Time of Incident:          | 7:00 pm                              |
| Location of Incident:      | XXXX S. Marshfield Ave., Chicago, IL |
| Date of COPA Notification: | September 28, 2017                   |
| Time of COPA Notification: | 4:30 pm                              |

On September 18<sup>th</sup>, 2017, Chicago police officers executed search warrants for the first and second floor units at XXXX S. Marshfield Avenue. At some point in the evening after the search was completed, the owner and a resident of the building, Involved Civilian 1 (“Involved Civilian 1”), came home to see that someone had searched the building. The target of the search warrants was her son, Involved Civilian 2, who lived in the second-floor unit of the building with Involved Civilian 1. Involved Civilian 1 alleges that Chicago police officers illegally searched the basement of the Marshfield address. Involved Civilian 1 further alleges that Chicago police officers damaged her home and stole coins from her safe in the second-floor unit.

**II. INVOLVED PARTIES**

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|----------------------|---|
| Involved Officer #1: | Involved Officer A, Star #XXXXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/2013, Police Officer, Unit XXX – Gang Investigation Division, DOB: XX/XX/1981, Male, White Hispanic   |
| Involved Officer #2: | Involved Officer B, Star #XXXXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/2012, Police Officer, Unit XXX – Gang Enforcement – Area South, DOB: XX/XX/1983, Male, White          |
| Involved Officer #3: | Involved Officer C, Star #XXXXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/2001, Police Officer, Unit XXX Gang Enforcement – Area South, DOB: XX/XX/1969, Male, Hispanic         |
| Involved Officer #4: | Involved Officer D, Star #XXXXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/2013, Police Officer, Unit XXX – Gang Enforcement – Area South, DOB: XX/XX/1988, Male, White Hispanic |

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

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|-----------------------|---|
| Involved Officer #5:  | Involved Officer E, Star #XXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/2013, Police Officer, Unit XXX – Gang Investigation Division, DOB:XX/XX/1986, Male, White           |
| Involved Officer #6:  | Involved Officer F, Star #XXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/2010, Police Officer, Unit XXX – Gang Enforcement – Area South, DOB: XX/XX/1983, Male, Hispanic     |
| Involved Officer #7:  | Involved Officer G, Star #XXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/1993, Police Officer/Field Training Officer, Unit XXX, DOB:XX/XX/1965, Male, Hispanic               |
| Involved Officer #8:  | Involved Sergeant A, Star #XXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/1995, Sergeant of Police, Unit XXX Gang Enforcement – Area South, DOB: XX/XX/1995, Female, Hispanic |
| Involved Officer #9:  | Involved Officer H, Star #XXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/2010, Police Officer, Unit XXX Office of Communications, DOB: XX/XX/1977, Male, White               |
| Involved Officer #10: | Involved Sergeant B, Star #XXXX, Employee ID #XXXXXX, Date of Appointment: XX/XX/1996, Sergeant of Police, Unit XXX – Gang Enforcement – Area South, DOB: XX/XX/1970, Male, White   |
| Involved Civilian #1: | Involved Civilian 1, DOB: XX/XX/1962, Female, Black   |
| Involved Civilian #2: | Involved Civilian 2, DOB: XX/XX/1988, Male, Black   |

### III. ALLEGATIONS

| Officer | Allegation  | Finding          |
|---------|---|------------------|
| Unknown | 1. It is alleged that on September 18, 2017, at approximately 7:00 PM at XXXX S. Marshfield Ave., Chicago, IL, an unknown Chicago police officer, illegally searched the basement of XXXX S. Marshfield Ave. without a search warrant in violation of Rule 1, Rule 2, and Rule 8 of the Chicago Police Department Rules of Conduct. | 1. Unfounded     |
|         | 2. It is alleged that on September 18, 2017, at approximately 7:00 PM at XXXX S. Marshfield Ave., Chicago IL, an unknown Chicago police officer damaged property and stole currency in violation of Rule 1, Rule 2, Rule 10, Rule 22, and Rule 40 of the Chicago  | 2. Not Sustained |

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|  | Police Department Rules of Conduct. |  |
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#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. **Rule 1** – Violation of any law or ordinance.
2. **Rule 2** – Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
3. **Rule 8** – Disrespect to or maltreatment of any person, while on or off duty.
4. **Rule 10** – Inattention to duty.
5. **Rule 22** – Failure to report promptly to the Department any information concerning any crime or other unlawful action.
6. **Rule 40** – Failure to inventory and process recovered property in conformance with Department orders.

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##### General Orders

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1. **GO 01-01 Mission Statement and Core Values**
2. **SO S04-19-03 Municipal Ordinance Search Warrant Approval Method**
3. **SO S04-19-01 Consent to Search Incidents**

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#### V. INVESTIGATION<sup>2</sup>

##### a. Interviews

**Involved Civilian 1** gave a digitally recorded interview to COPA on October 2<sup>nd</sup>, 2017. In her statement, Involved Civilian 1 stated that she resides at XXXX S. Marshfield Avenue and she owns the building. Involved Civilian 1 stated she lives on the second floor of the building, and a woman rented the first floor of the building, but she had moved out prior to the day of the search. Involved Civilian 1 stated the woman who lived on the first floor is named Civilian 3. Involved Civilian 1 stated Involved Civilian 2 is her son and lives in her unit of XXXX S.

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

Marshfield Ave. on the second floor. Involved Civilian 1 stated her son, Involved Civilian 2, was arrested previously for having a firearm in a vehicle.<sup>3</sup>

Involved Civilian 1 stated that the warrant was executed on September 18, 2017, and that her neighbors told her the warrant was executed around 3:00 pm that day. Involved Civilian 1 stated she did not know why Chicago Police Department (“CPD”) had a search warrant. Involved Civilian 1 stated that CPD forced open her doors, and searched through the basement, first floor, and second floor of the building. Involved Civilian 1 stated no one was home when CPD searched. Involved Civilian 1 stated CPD had a warrant for the first and second floor, but not the basement. Involved Civilian 1 stated the objective of the warrant was to find a handgun. Involved Civilian 1 stated her basement was not part of the search warrant.

Involved Civilian 1 stated around 5:00 pm on September 18, 2017, her neighbors called her and informed her that CPD searched her home, and she arrived back home from work around 8:00 pm. Involved Civilian 1 stated when she came home, she saw all the doors of the apartment busted out. Involved Civilian 1 stated that each floor has its own separate entrance. Involved Civilian 1 stated CPD officers had taken lye and poured it on Civilian 3’s clothing. Involved Civilian 1 stated officers moved a refrigerator, knocked a stove down, and busted open the door to the first-floor apartment. Involved Civilian 1 then stated officers completely searched her basement and lye was everywhere. Involved Civilian 1 stated that there is a separate entrance to the basement, and officers had broken open the door to the basement. Involved Civilian 1 stated that her brother used to live in the basement, but no one lived in the basement at the time of the search. Involved Civilian 1 stated the basement is a separate apartment in the building. Involved Civilian 1 stated officers put holes in the walls of the basement, and officers left the back door open.

Involved Civilian 1 stated that she then went upstairs and saw that officers threw bibles through her house. Involved Civilian 1 stated officers took a drawer out of her refrigerator and left the refrigerator door open. Involved Civilian 1 stated her television was gone and officers stole coins from a safe she owns. Involved Civilian 1 stated she has a FOID card. Involved Civilian 1 stated she then called CPD around 8:00 to 8:30 pm that day and spoke with a Sergeant who was rude to her. Involved Civilian 1 stated she did not make a police report. Involved Civilian 1 stated when she got home, all the front doors and back doors were wide open, and anyone could have walked into the home before she got home.<sup>4</sup>

**Involved Officer D #XXXXXX** gave a digitally recorded interview to COPA on May 8<sup>th</sup>, 2018. In his statement, Involved Officer D stated he was on-duty and working as a gang enforcement officer on September 18<sup>th</sup>, 2017. Involved Officer D stated he was present at the execution of the search warrant for XXXX S. Marshfield Avenue. Involved Officer D stated he had never been to the residence prior to the search on September 18<sup>th</sup>, 2017.

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<sup>3</sup> Case number 16CRXXXXXX was pending in Cook County Criminal Court and adjudicated on September 6, 2017.

<sup>4</sup> Attachment 15

Involved Officer D stated he was part of the entry team, and his role was to enter and secure the home prior to the search. Involved Officer D stated the objective of the search was to find a handgun and Involved Civilian 2. Involved Officer D stated Involved Officer A briefed Involved Officer D and fellow officers about the search warrant prior to the execution of the warrant. Involved Officer D stated he and Involved Officer E drove to the area of XXXX S. Marshfield Avenue in a covert vehicle and conducted surveillance on the house. Involved Officer D then stated the rest of the team arrived later. Involved Officer D stated the officers walked up to the front door of the residence, and officers knocked and announced their office. Involved Officer D stated there was no answer, and the officers made entry into the second floor of the home through the front door. Involved Officer D stated that he then cleared the house to secure it. Involved Officer D stated the second floor of XXXX S. Marshfield Ave. looked ransacked and he believed the second floor was abandoned. Involved Officer D stated there was garbage on the floor, empty bottles, and wrappers on the floor. Involved Officer D stated there were holes in the wall, and he did not believe there was much furniture if any on the second floor. Involved Officer D stated he did not observe the search of the residence, and he was inside the home for two minutes.

Involved Officer D stated that after sweeping through the house, a confidential informant notified him that an individual was walking with a gun near 44<sup>th</sup> and King Drive. Involved Officer D stated at this time he and two other officers left to investigate the tip from his confidential informant. Involved Officer D stated that he returned and when he did the other involved officers had completed their search and were exiting the residence. Involved Officer D stated he never reentered the residence. Involved Officer D stated he did not witness any officer search the first floor or basement of the home. Involved Officer D stated he never saw a safe. Involved Officer D further stated he did not see any officers damage the property, other than forcing entry through the front door.<sup>5</sup>

**Sergeant of Police Involved Sergeant A #XXX** gave a digitally recorded interview to COPA on May 23<sup>rd</sup>, 2018. In her statement, Involved Sergeant A stated she was on-duty as a supervisor on September 18<sup>th</sup>, 2017. Involved Sergeant A stated that as a supervisor she controlled her team of eight officers. Involved Sergeant A stated she was present at the execution of the search warrants. Involved Sergeant A stated there was no warrant for the basement. Involved Sergeant A stated her role in the search was to supervise her team of officers, and her team was joined by another team of officers. Involved Sergeant A stated she was never at the address previous to this day, and she did not know Involved Civilian 2.

Involved Sergeant A stated she announced the search warrant over the radio. Involved Sergeant A then stated officers knocked on the front door of XXXX S. Marshfield Avenue. Involved Sergeant A stated no one responded to the officers' knocking, so they forced entry into the home. Involved Sergeant A stated there were two floors in the home, with one team going to the first floor and another team going to the second floor. Involved Sergeant A did not recall which floor her team searched, but she stated another Sergeant, Involved Sergeant B, was present with his team. Involved Sergeant A stated she did not recall the condition of the home, but stated photographs were taken before and after the search was conducted. Involved Sergeant A stated

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<sup>5</sup> Attachments 21, 22

she did not recall any holes in the wall. Involved Sergeant A stated no officers damaged the property and she would not have allowed that to happen. Involved Sergeant A stated she would have reported property damage if any of her officers damaged the home. Involved Sergeant A stated that the search was executed at 7:03pm and was finished at 7:50 pm.

Involved Sergeant A stated that she was not aware of any officers entering a basement, or if there was a door leading to a basement. Involved Sergeant A stated if there was a door leading to a basement, officers would sweep and secure the basement for officer safety, looking for individuals, but would not conduct a search of the basement. Involved Sergeant A stated she did not recall if a team entered a basement or not, but if there was a door leading to a basement on the first floor, it would have definitely been cleared for officer safety. Involved Sergeant A stated that she did not recall a separate entrance to a basement. Involved Sergeant A stated she did not recall a safe being in the home, nor did she hear anything about a safe or a safe being broken into during the search. Involved Sergeant A stated she did not see any bags of coins, nor did she hear of any officers finding or taking bags of coins. Involved Sergeant A did not recall lye being at the residence, nor did she see lye or any officers pouring lye anywhere in the home. Involved Sergeant A stated that weapons were not found in the home.

Involved Sergeant A stated she and her team left the premises secured to a taller young black male who was standing across the street, who stated that he lived at XXXX S. Marshfield Avenue. Involved Sergeant A stated that the young male showed officers his identification, and his identification confirmed this. The young male told officers he was Involved Civilian 2's brother.<sup>6</sup>

**Sergeant of Police Involved Sergeant B #XXXX** gave a digitally recorded interview to COPA on May 30<sup>th</sup>, 2018. In his statement, Involved Sergeant B stated he was on-duty, working the afternoon watch on September 18<sup>th</sup>, 2017. Involved Sergeant B stated he did not recall his exact duties that day, but was working his normal tour of duty, the third watch. Involved Sergeant B stated he likely was in plain clothes on the date of the alleged incident. Involved Sergeant B stated that he did not recall the search but it was possible that he and his team assisted Involved Sergeant A's team. Involved Sergeant B stated he did not recall ever entering the home at XXXX S. Marshfield Ave. and he did not recall ever being at the address prior. Involved Sergeant B stated he did not know Involved Civilian 2. Involved Sergeant B stated he did not recall a safe being at the address, nor any bags of coins at the address. Involved Sergeant B stated he did not recall a basement at the address. Involved Sergeant B stated that normal Chicago Police protocol entails taking photographs of every room searched prior to and after a search is conducted. Involved Sergeant B stated that if a basement is accessible from the residence on the first floor, it would likely be searched, but if it was not accessible from the residence on the first floor, the basement would only be cleared for officer safety, but not searched.<sup>7</sup>

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<sup>6</sup> Attachment 27. COPA attempted to contact Involved Civilian 2's brother, Civilian 3 Involved Civilian 2, multiple times. COPA investigators visited Civilian 3 Involved Civilian 2's last known address, contacted last known phone number, and returned to XXXX S. Marshfield to contact Civilian 3 Involved Civilian 2. COPA was not able to locate or reach Civilian 3 Involved Civilian 2.

<sup>7</sup> Attachment 29

**Involved Officer A #XXXXXX** gave a digitally recorded interview to COPA on June 7<sup>th</sup>, 2018. In his statement to COPA, Involved Officer A stated he was on-duty on September 18<sup>th</sup>, 2017. Involved Officer A stated he was an affiant of two search warrants, one for the first floor, and one for the second floor, of XXXX S. Marshfield Avenue. Involved Officer A stated as the affiant, he was provided information by a confidential informant, and with the information he drafted the two search warrants and presented the facts to a judge. Involved Officer A stated both search warrants were approved by the judge. Involved Officer A stated prior to executing the search warrants, officers conducted a briefing detailing the plan of the search.

Involved Officer A stated he was in the sixth or seventh vehicle in the convoy that arrived at XXXX S. Marshfield Avenue. Involved Officer A stated Involved Sergeant B's team was the first entry team, and that he was a member of Involved Sergeant A's team. Involved Officer A stated that he did not recall who was on Involved Sergeant B's team that day. Involved Officer A stated officers knocked and announced their office as Chicago Police officers, there was no answer, and then the first entry team forced entry into the door of the house. Involved Officer A stated he and Involved Sergeant A's team went immediately to the second-floor unit, knocked and announced their office as Chicago Police officers, there was no answer or sound whatsoever, and they made forced entry into the second-floor unit of the home. Involved Officer A stated officers used a Chicago bar<sup>8</sup> and a battering ram to make forced entry into the home and units. Involved Officer A stated after making forced entry, the main objective was to secure the home, which was done. Involved Officer A then stated that after the home was secure, photographs were taken before touching any property within the dwelling. Involved Officer A stated that after photographs were taken, Involved Sergeant A gave her team permission to begin the search. Involved Officer A stated he did not know what the team on the first floor was doing while his team was searching on the second floor. Involved Officer A stated he did not search the first floor. Involved Officer A stated that Involved Sergeant B told him that he thought the first-floor unit was vacant as there were holes in the walls and pipes exposed through the dry wall.

Involved Officer A stated that officers conducted a systematic search, with one officer searching an individual room in a respectful manner, and officers tried to place everything back in a respectful manner. Involved Officer A then stated once the home was searched, officers took photographs again after the search was conducted, and left copies of the search warrants at the home. Involved Officer A stated that officers secured the home when the search was completed. Involved Officer A stated he did not see any holes in the walls on the second floor of the home, nor did he see any officers damage the walls or put a hole in any of the walls. Involved Officer A stated he did see a safe on the second floor of the home, and the safe was left open and not securely locked. Involved Officer A stated he did not see any bag of coins, nor did he hear of any officers recovering a bag of coins. Involved Officer A stated there was a basement to the home, and it was attached to the first-floor unit of the property. Involved Officer A stated officers searched the basement but did not know how they gained entry to the basement. Involved Officer A further stated that he did not know which team of officers searched the basement. Involved Officer A stated he did not know if there was a door to the basement, if it was open or closed, or

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<sup>8</sup> A Chicago bar, akin to a halligan bar, is a multipurpose tool used to pry, twist, punch or strike. A halligan bar is often used by law enforcement to make forced entry.

why officers searched the basement. Involved Officer A stated that it would be permissible for an officer to search the basement if the door leading to the basement was not secured or opened. Involved Officer A stated that he did not know if any photographs were taken of the basement. Involved Officer A stated that the basement was accessible only through the first-floor unit. Involved Officer A was not aware of any lye being poured at the home. Involved Officer A did not hear of any officers damaging the basement.<sup>9</sup>

**Involved Officer A gave a second digitally recorded interview** to COPA on June 27<sup>th</sup>, 2018. In his second statement to COPA, Involved Officer A stated that the home at XXXX S. Marshfield Avenue is a two-apartment residential brick building. Involved Officer A stated that he knew that the building had two units because he observed two separate living rooms on the first floor and second floor. Involved Officer A stated the purpose of obtaining a warrant for the first and second floor was to retrieve firearms from a convicted felon, and a confidential informant told Involved Officer A the subject of the warrants (Involved Civilian 2) showed him firearms on both the first floor and second floor of the building. Involved Officer A stated that the confidential informant did not notify officers of a basement. Involved Officer A also stated there was no separate door leading to the basement in the front foyer. Involved Officer A stated he was told by other officers that there was an access point to the basement located near the rear of the first-floor apartment. Involved Officer A stated there was not an access point to the basement in the interior of the second-floor unit. Involved Officer A stated he did not notice an entry point to the basement from the exterior of the home. Involved Officer A stated that during the execution of a search warrant, officers would perform a protective sweep of the property in its entirety. Involved Officer A stated that basements to two-unit apartments are generally a common area, with shared water heaters or washers and dryers, and thus would be swept for officer safety. Involved Officer A stated he was never aware of a basement at the home prior to the search being conducted, and neither were any other officers that performed the search of the home.<sup>10</sup>

### **b. Digital Evidence**

COPA requested all involved officers body worn camera footage on October 17<sup>th</sup>, 2017, however, CPD responded on October 27, 2017, that there were no in car cameras nor body worn cameras given to the 6700 units at the time of the incident.<sup>11</sup>

### **c. Documentary Evidence**

**A Complaint for Search Warrant**, warrant #XXXXXXXX, details the reasons for CPD's search of XXXX S. Marshfield Ave., Chicago, IL. The complaint lists Involved Officer A as the affiant. The complaint states that the search is for a black male, known as "Civilian 4" aka Involved Civilian 2 and the premises of the XXXX S. Marshfield Ave., Chicago, IL. The complaint specifies that the first floor is to be searched. The complaint also lists a Civilian 5 and black semi-automatic handgun, any and all other firearms and ammunition, and any proof of

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<sup>9</sup> Attachment 33

<sup>10</sup> Attachment 38

<sup>11</sup> Attachments 6, 7, 11, 16

residency for Involved Civilian 2 as items to be seized. The complaint states that the items to be seized constitute evidence of the offense of 720 ILCS 5.0/24-1.1 – A UUW by Felon – Possession of Firearm. The complaint is signed by Cook County Assistant States Attorney A on September 16<sup>th</sup>, 2017.<sup>12</sup>

**A Complaint for Search Warrant**, warrant #XXXXXXXX, details the reasons for CPD's search of XXXX S. Marshfield Ave., Chicago, IL. The complaint lists Involved Officer A as the affiant. The complaint states that the search is for a black male, known as "Civilian 4" aka Involved Civilian 2 and the premises of the XXXX S. Marshfield Ave., Chicago, IL. The complaint specifies that the second floor is to be searched. The complaint also lists a tan and black semi-automatic rifle, any and all other firearms and ammunition, and any proof of residency for Involved Civilian 2 as items to be seized. The complaint states that the items to be seized constitute evidence of the offense of 720 ILCS 5.0/24-1.1 – A UUW by Felon – Possession of Firearm. The complaint is signed by Cook County Assistant States Attorney A on September 16<sup>th</sup>, 2017.<sup>13</sup>

**An Original Case Incident Report**, RD #XXXXXXXX, documents the search of XXXX S. Marshfield, Avenue. The report notes the violation as 143A – Weapons Violation – Unlawful Poss of Handgun, with the occurrence location listed as XXXX S Marshfield Ave, #2, Chicago, IL, and the occurrence date and time listed as 18 September 2017 19:03. The report lists the suspect as Involved Civilian 2, with his residence listed as XXXX S Marshfield Ave, #2, Chicago, IL. The report narrative states:

This is a search warrant (XXXXXXXX) executed by the area south gang enforcement team #XXXX. Officer's executed a search warrant at XXXX S. Marshfield Ave. 2<sup>nd</sup> Fl. Apartment. Officer's approached the front door common entrance to said address and knocked while announcing their office. After no response, Officer's made forced entry into the apartment complex and Officer's then proceeded to the 2<sup>nd</sup> floor and knocked on the 2<sup>nd</sup> floor apartment door. After no response Officer's then made entry into the 2<sup>nd</sup> floor apartment. The systematic search of the apartment yielded negative results of both the targets of the search warrant (Involved Civilian 2) and firearms. Involved Officer A did locate proof of residency for Involved Civilian 2 (Offender). Photographs were taken before and after the systematic search of the apartment. A copy of the search warrant and evidence log were left in the apartment. All items pertaining to this search warrant to include photographs are inventoried under inventory # 14004830.

The report lists officers involved as Involved Officer A, Involved Officer E, Involved Officer D, Involved Officer C, Involved Officer F, Involved Officer G, Involved Sergeant A, and Involved Officer H.<sup>14</sup>

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<sup>12</sup> Attachment 3, Complaint for Search Warrant

<sup>13</sup> Attachment 4, Complaint for Search Warrant

<sup>14</sup> Attachment 23. An associated case supplementary marked Attachment 24 exists but does not add any more material information to the investigation.

**A Property Inventory Log**, inventory # 14004830, documents the items seized during CPD's search of XXXX S. Marshfield Avenue. The log lists the warrant number as XXXXXXXX. The log lists that 30 digital photographs were taken and inventoried. The log also lists that a copy of a search was inventoried, a piece of mail proving residency for the 2<sup>nd</sup> floor of XXXX S. Marshfield Avenue was inventoried, as was a copy of the evidence recovery log. The log lists the date that the items were recovered as September 18<sup>th</sup>, 2017. The log lists the charges as 143A, Weapons Violation Unlawful Poss of Handgun. The log lists the owner of the inventoried items as Involved Civilian 2, with the address of XXXX S. Marshfield Ave., Apt. 2, Chicago, IL. The log then lists Involved Officer A as the founder of the property inventoried, and that it will be held for investigation.<sup>15</sup>

Thirty **photographs** were taken by CPD over the course of the search of XXXX S. Marshfield Ave., second floor, Chicago, IL. The photographs depict the second-floor unit before and after the search was conducted. The photographs do not depict any property damage caused to the home, but the photographs do indicate that items were moved and scattered during the search. One of the photographs taken on the front steps depicts the front doors open to both the first-floor unit and second floor unit, and the basement door can be seen open, inside the first-floor unit. One of the photographs depicts a letter addressed to Involved Civilian 2, with the address listed as XXXX S. Marshfield Ave., Apt. 2, Chicago, IL. Another photograph depicts a letter from the Illinois Department of Corrections addressed to Involved Civilian 1, with the address listed as XXXX S. Marshfield, 1<sup>st</sup> floor, Chicago IL, and she is listed as the mother of Involved Civilian 2.<sup>16</sup>

One of the thirty photographs depict the search warrant #XXXXXXX, signed by Judge A #XXX. The photograph shows that the search warrant was signed on September 16<sup>th</sup>, 2017 at 3:45 pm.<sup>17</sup>

Fifteen **photographs** were taken by CPD over the course of the search of XXXX S. Marshfield Ave., first floor, Chicago, IL. The photographs depict the first-floor unit before and after the search was conducted. The photographs do not depict any property damage caused to the home, but the photographs do indicate that items were moved and scattered during the search. The photographs also depict rooms with no items in them. The photographs also show the door leading to the basement, and the door appears closed.<sup>18</sup>

One of the fifteen photographs depict the search warrant #XXXXXXX, signed by Judge A #XXX. The photograph shows that the search warrant was signed on September 16<sup>th</sup>, 2017 at 3:25 pm.<sup>19</sup>

An Office of Emergency Management **Event Query Report** details when the search of XXXX S. Marshfield Avenue began and when it ended. The Report's event number is

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<sup>15</sup> Attachment 10

<sup>16</sup> Attachment 17

<sup>17</sup> Attachment 17

<sup>18</sup> Attachment 35

<sup>19</sup> Attachment 35

1726112523, the date listed is September 18<sup>th</sup>, 2017, and the type of event is listed as a search. The address of the event is listed as XXXX S. Marshfield Avenue. The Report shows that a message was sent by Involved Sergeant A indicating the search began at 7:04:27 pm and a second message was sent over the radio by Involved Sergeant A at 7:50:37 pm indicating that the search was finished and the officers were prepared to leave XXXX S. Marshfield Avenue.<sup>20</sup>

COPA investigators conducted a **site visit** to XXXX S. Marshfield Avenue by COPA on June 11<sup>th</sup>, 2018 at 12:00 pm to determine whether the basement entrance was in the first-floor unit or if it had a completely separate entrance outside the first and second-floor units of the home. Civilian 5 answered the door and told COPA investigators that she moved into the first-floor unit of the home in April 2018, and she showed the investigators where the door leading to the basement is located. The basement door is located in the first-floor unit, near the front hallway of the unit. Civilian 5 told investigators that the door leading to the basement on the first floor has been locked since she moved to the home, and she has never been in the basement. Civilian 5 further told investigators that there was another entrance to the basement in the back of the home, but it had also been locked since she moved to the home and she has never been through that door.<sup>21</sup>

## VI. ANALYSIS

The Fourth Amendment of the United States Constitution states: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. CONST. AMEND. 4.

For search warrants targeting a home, the point of particularly describing the place to be searched is to limit the search to a “single living unit (the residence of one person or family).” *United States v. Hinton*, 219 F.2d 324, 326 (7th Cir. 1955). A warrant does not need to perfectly describe the living unit because “room must be allowed” for officers to make “some mistakes,” given that “many situations which confront officers in the course of executing their duties are more or less ambiguous.” *Maryland v. Garrison*, 480 U.S. 79, 87, n.11 (1987) (quoting *Brinegar v. United States*, 339 U.S. 160, 176 (1949)).

When a search warrant describes the place to be searched as a particular unit within a larger property, it is reasonable under the Fourth Amendment for law enforcement to search parts of the particular unit that the warrant does not specifically name. *See People v. Valle*, 2015 IL App (2d) 131319, ¶ 14 (“a warrant to search the home legitimizes the search of those areas considered under the fourth amendment to be part of that home”); *People v. Gordon*, 128 Ill. App. 3d 92, 96-98 (1st Dist. 1984) (finding it reasonable for police to search the lower level of a first-floor apartment where the warrant “directed the police to search the ‘entire 1st floor apartment’”); *United States v. Kelly*, 772 F.3d 1072, 1083 (7th Cir. 2014) (holding it reasonable for officers to search all levels of the targeted apartment even though the search warrant

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<sup>20</sup> Attachment 8

<sup>21</sup> Attachment 36

authorized searching only the “upper level” of a “multiple family residence” because the officers saw when they arrived that there were actually two multi-level apartments, not an upper and lower apartment). “The controlling principle” when a search warrant inexactly describes the layout of an apartment “is that where probable cause to search a dwelling has been established, the search must be confined to the area as to which probable cause exists so as to avoid a search of the wrong apartment and an infringement of the rights of others.” *Gordon*, 128 Ill. App. 3d at 98. A search is reasonable when it is “limited... to the targeted apartment and... there [is] no risk that [officers] might inadvertently [] search[] the wrong unit.” *Kelly*, 773 F.3d at 1083.

COPA finds that the first-floor search warrant authorized officers to search the basement because the basement was part of the first-floor unit. Although Involved Civilian 1 asserted that the basement is a separate apartment, it takes more than the owner’s belief to establish that part of a unit is a separate living space for Fourth Amendment purposes. *See United States v. White*, 416 F.3d 634, 639 (7th Cir. 2005) (upholding the validity of a search warrant for a single-family home because the parts of the home that the defendant claimed were independent units lacked “the typical distinctions that designate separate apartments”). The fact that there is a door to the basement within the first-floor apartment indicates that it is, in fact, part of the first-floor apartment, even if there is also an exterior entrance. It does not matter whether the door to the basement was locked at the time of the search or any later time; locking a door does not turn what is behind it into a separate living space. *See People v. Siegwarth*, 285 Ill. App. 3d 739, 744 (3rd Dist. 1996) (“the fact that defendant’s bedroom was padlocked and [his daughter] told police that the room was her father’s does not mean that the house in fact contained multiple living units”) (citing *People v. Economy*, 259 Ill. App. 3d 504 (4th Dist. 1994)). Involved Civilian 1’s statement that her brother used to live in the basement does not establish that it ever was, a self-contained living space yet alone on the date of the search.<sup>22</sup> There is no evidence that the basement has its own unique address. *See Valle*, 2015 IL App (2d) 131319, ¶ 20 (stating that a detached garage was part of a home for Fourth Amendment purposes because, in part, it “was within the same enclosure as the house and shared its address”). There is no evidence that Involved Officer A, the affiant of the search warrants, or any other Department member had any specific knowledge of the basement before obtaining the warrant or had any reason to suspect the basement was a separate living unit. Moreover, it would be extremely unusual for an independent unit in a multi-unit building to have an entrance into another independent unit.<sup>23</sup> As evidenced by the photographs and COPA investigators’ personal observations, the door leading to the basement is identical to the other doors within the first-floor unit (e.g. the bathroom door, the bedroom door, etc.) and does not have the characteristics normally associated with an entrance door as opposed to doors within a unit.

The officers who searched Involved Civilian 1’s home relied on an inexact warrant, but an inexact warrant does not make a search unconstitutional. *Garrison*, 480 US. at 87, n.11. The first-floor warrant was specific enough that the officers searched only a “single living unit (the

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<sup>22</sup> COPA contacted Involved Civilian 1 to access the unit on multiple occasions, but Involved Civilian 1 did not cooperate.

<sup>23</sup> In contrast, there is foyer which leads to the separate entrance of the first-floor unit and the second-floor unit. A reasonable officer would know that the first-floor unit was separate and distinct from the second-floor unit, but the officers had a warrant for both units.

residence of one person or family).” *Hinton*, 219 F.2d at 326. Because no one was living in the basement on the date of the search and there was no reason for the officers to suspect the basement was a separate living unit, the officers did not search the wrong unit or infringe upon the privacy rights of the wrong party. *See Kelly*, 773 F.3d at 1083. A reasonable officer would have considered the basement to be part of the first-floor unit and therefore the search warrant for the first-floor unit covered the basement. Therefore, COPA recommends a finding of **Unfounded** for Allegation #1.

COPA further finds that the officers executing the search of XXXX S. Marshfield Avenue, based upon the preponderance of the evidence, did not excessively damage the property of the home. The general touchstone of reasonableness that governs any Fourth Amendment analysis also governs the method of execution of a warrant. Thus, excessive or unnecessary damage to property through the course of executing a warrant may violate the Fourth Amendment. As always, the analysis hinges on the reasonableness of the officer’s conduct under the circumstances. Given that it is virtually impossible to know what an officer may encounter when executing a warrant, it is generally left to the officer’s discretion to determine how to proceed.

Involved Sergeant A and Involved Officer A stated that officers knocked and announced their office as Chicago Police officers prior to opening the front door to XXXX S. Marshfield Ave. and they also knocked and announced their office prior to searching the 2<sup>nd</sup> floor residence of the building. Both Involved Sergeant A and Involved Officer A stated forced entry was made into the home and into the units after no one answered the doors. It is reasonable for an officer to use their equipment, the Chicago bar and battering ram, to open a door to a home and units that they have a valid search warrant for in the execution of the warrants.

It is further alleged that Chicago Police officers stole a bag of coins from a safe in XXXX S. Marshfield Ave. Only one officer, Involved Officer A, recalled a safe being at the home. Involved Officer A stated he did see a safe on the second floor of the home, and the safe was left open and not securely locked. Involved Officer A further stated that there was nothing inside the open safe. None of the officers stated they saw a bag of coins at any point of the search, nor did they hear of any officers recovering a bag of coins. As COPA cannot determine whether or not a bag of coins existed in the home, or if any officers took said bag of coins from the home, COPA recommends a finding of **Not Sustained** for Allegation #2.

## VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

| <b>Allegation</b>  | <b>Finding</b> |
|--|----------------|
| Unknown Police Officer   |                |
| 1. It is alleged that on September 18, 2017, at approximately 7:00 PM at XXXX S. Marshfield Ave., Chicago, IL, an unknown Chicago police officer, illegally searched the basement of XXXX S. Marshfield Ave. without a search warrant. | Unfounded      |
| 2. It is alleged that on September 18, 2017, at approximately 7:00   | Not Sustained  |

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PM at XXXX S. Marshfield Ave., Chicago IL, an unknown Chicago police officer damaged property and stole currency.

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Approved:

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*Deputy Chief Administrator A*

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Date

**Appendix A**

## Assigned Investigative Staff

|                                    |                              |
|------------------------------------|------------------------------|
| <b>Squad #:</b>                    | XX                           |
| <b>Investigator:</b>               | Investigator A               |
| <b>Supervising Investigator:</b>   | Supervising Investigator A   |
| <b>Deputy Chief Administrator:</b> | Deputy Chief Administrator A |